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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

15 IVAN VERNARD CLEVELAND,

16 Plaintiff,

17 v.

18 BEN CURRY, Warden, et al.,

19 Defendants.

20
21 C 07-2809 JF (PR)

22
23 DECLARATION OF
24 DEFENDANT ABANICO IN
25 SUPPORT OF DEFENDANTS'
26 MOTION FOR SUMMARY
27 JUDGMENT

28 I, Correctional Officer Abanico, declare:

29 1. I am presently an acting Correctional Sergeant at the Correctional Training Facility
30 (CTF), and one of the Defendants in this action. CTF is a state prison operated by the California
31 Department of Corrections and Rehabilitation (CDCR).

32 2. This declaration is made in support of Defendants' motion for summary judgment. I
33 am competent to testify to the matters set forth in this declaration, and would do so if called upon
34 by this Court to testify.

35 3. I have been employed by CDCR as a correctional officer at CTF since November 2004,

1 and have held the position of acting Correctional Sergeant at CTF since February 2008. Before
 2 working at CTF, I was trained at CDCR's Richard A. McGee Correctional Training Center (the
 3 Training Center). Part of this training includes instruction on how to properly perform a clothed-
 4 body search and an unclothed-body search. Since my employment with CDCR, all of the body
 5 searches I have conducted have been in conformance with the training and procedures taught at
 6 the Training Center.

7 4. One of my duties at CTF is to perform random clothed-body searches in the prison
 8 hallway while inmates leave their cells for meals and yard time. In the West Corridor, where I
 9 am often stationed to perform searches, six wings connect to each hallway, and each wing houses
 10 approximately two-hundred inmates. Typically, four correctional officers will be assigned to
 11 conduct clothed-body searches. These officers operate in pairs, for their safety and security. One
 12 officer will conduct the search, while the officer's partner watches, prepared to take action if the
 13 inmate resists. Typically, three inmates per wing, which amounts to eighteen inmates per
 14 hallway, will be searched while inmates exit or enter their wing.

15 5. I do not specifically recall inmate Ivan Cleveland (Plaintiff) or the clothed-body
 16 search that is the subject of this action, but will go on to describe the procedure I use when
 17 performing randomized clothed-body searches.

18 6. The randomized searches occur publicly in the hallway. After I randomly select an
 19 inmate for a clothed-body search, first I ask for his prisoner-identification card, which CDCR
 20 issues to all inmates. Then I ask the inmate to empty his pockets for the search. Then I ask the
 21 inmate to place the palms of his hands against the wall.

22 7. Next, I place one hand on the inmate's back, and leave it there for the remainder of the
 23 search on the side of the inmate's body that is accessible by my free hand. My hand is anchored
 24 on the inmate's back as a safety precaution, so that I can immediately notice and react if the
 25 inmate begins to move. My first physical contact with the inmate occurs when my hand is placed
 26 against the back.

27 8. With my free hand, I then pat down the outside and inside of the inmate's arm, and the
 28 inmate's armpit. I pat down his back from neck to waist, and then his chest from neck to waist. I

1 pat down his outer leg from hip to shoe, and then his inner leg from shoe up to the high inner
2 thigh. I pat down the inmate's rear pockets, which anatomically amounts to patting down his
3 buttocks. Finally, I pass my hand in a sweeping motion from the inner thigh across the groin, to
4 check the groin for contraband.

5 9. Next, I will switch my anchoring hand on the inmate's back, and search the other side
6 of the inmate's body. This typical, uneventful search takes less than one minute to perform.

7 10. But if I feel any suspicious bulges during the search, it can take more time. If I am
8 given cause for suspicion, I ask the inmate to remove his shoes. If I feel any foreign objects on
9 the body during the search, I remove and identify them if possible, and confiscate any prohibited
10 items. For instance, I have removed and confiscated a pouch of contraband tobacco from an
11 inmate's pocket during a clothed-body search.

12 11. If, during the course of a clothed-body search, I feel a foreign object that is
13 unaccessible and under the inmate's clothing, I will call for the hall supervisor and request an
14 unclothed-body search. Unclothed-body searches are performed in a private area, rather than the
15 public hallway.

16 12. For instance, I have felt foreign objects while sweeping my hand across an inmate's
17 groin, and requested an unclothed-body search that ultimately uncovered contraband such as
18 tobacco and tattoo ink taped between an inmate's genitals and inner thigh. Concealed weapons
19 are also uncovered during these searches.

20 13. During an unclothed-body search, the inmate is requested to remove all his clothing. I
21 visually review the inmate's body to identify and confiscate any contraband. Next, I instruct the
22 inmate to bend over and spread his buttocks and cough, while observing the inmate's rear cavity.
23 Coughing forces out any contraband hidden in the anus. If any contraband is noticeable, the
24 inmate will be sent to medical quarters for a cavity search, which is not performed by
25 correctional officers but by medical staff.

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1 14. All of the body searches I have conducted while employed by CDCR have been in
2 keeping with the above description, and in accord with my training from the Training Center. I
3 conduct these searches purely as part of my job duties, to maintain the safety and security of the
4 prison by identifying and confiscating contraband. I never use these searches as a retaliatory or
5 punitive measure.

6 I declare under penalty of perjury that the foregoing is true and correct to the best of my
7 knowledge and recollection, and that this declaration was executed on March 28, 2008 at
8 Soledad, California.

Officer Abanico

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